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10/583,045	06/15/2006	Norihiko Kobayashi	KAN-110US	6758

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EXAMINER	
CORRIELUS, JEAN M	
ART UNIT	PAPER NUMBER
2162	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/583,045	KOBAYASHI ET AL.	
	Examiner	Art Unit	
	Jean M. Corrielus	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the application filed on June 15, 2006, in which claims 1-16 are presented for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) filed on June 15, 2006 complies with the provisions of M.P.E.P. 609. It has been placed in the application file. The information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 recites an index imparting system which generates metadata by using control signal. Such a system is not embedded in processor and memory to perform the steps as claimed. The use of the word system does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the system is a physical part of a device can the system as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 101. The memory is not an element of the claimed system, but instead is, at beast, for use with the claimed system. After further review the specification, it is evident that system would suggest to one of ordinary skill that all may be reasonable implement as software routines.

The claim also recites a control signal. Such control signal is a propagation media. The propagation media in the context of the disclosure covers signal and carrier waves, which are not a manufacture within the meaning of 101, and the electrical connections and optical fibers, on which the program is still unavailable to the processor. The control signal is still unable to act as a computer component and have its functionality realized. Claims 1, 2, 3 and 4 fail to be limiting to embodiments which fall within a statutory category.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-16 recite "a tied manner beforehand". It is unclear to the examiner as to what the applicant is referring to a tied manner beforehand. Clarification is strongly advised.

6. Claims 1-4 recite the limitation "the acquisition, in the meantime; by the request; and on the basic". There is insufficient antecedent basis for this limitation in the claim. The dependent claims should also be reviewed for informalities.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted

> on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Takechi US Patent no. 7,126,642.

As to claim 1, Takechi discloses the claimed "a control signal detecting section to identify the type of each control signal and an identifier for uniquely specifying each control signal following the detection of various kinds of control signals and obtain the time of the detection" (when the input image signal having an aspect ratio different from an aspect ratio of image screen display of the display means is supplied and when the telop signal is detected, the readout start address for the memory means is controlled on the basis of the address control signal generated by the address control signal generation means, so that a picture defect of the telop signal is prevented without changing the aspect ratio of the input image signal); "a control signal attribute information managing section to manage the identifier of a control signal and attribute information relevant thereto in a tied manner beforehand and then identify the attribute information on the basis of an identifier obtained at the control signal detecting section" (see FIG. 1 the an address control signal generation means 30 is provided. Since a region of an image displayed on the screen can be changed in any direction of horizontal and vertical directions by controlling a readout start address for the memory means 22 on the basis of an address control signal an image having no picture defect can be displayed); and "an index generating section to generate metadata following the acquisition of a type, an identifier, and time identified at the control signal detecting section and, in the meantime, impart the attribute information obtained by the request from the control signal attribute

information managing section to the metadata" (see FIG. 11, a telop detection circuit 120 constituting an address control signal generation means, wherein the telop detection output is supplied to a control signal generation portion 160, and an address control signal similar to that in FIG. 1 is generated).

As to claim 2, Takechi discloses the claimed "a control signal detecting section to detect a voice control signal of a microphone into which voice of a performer himself is input, identify an identifier of the microphone, and obtain time of the detection" (when the input image signal having an aspect ratio different from an aspect ratio of image screen display of the display means is supplied and when the telop signal is detected, the readout start address for the memory means is controlled on the basis of the address control signal generated by the address control signal generation means, so that a picture defect of the telop signal is prevented without changing the aspect ratio of the input image signal); "a control signal attribute information managing section to manage the identifier of the microphone and attribute information relevant to a person wearing the microphone in a tied manner beforehand and then identify the attribute information relevant to the person on the basis of an identifier obtained at the control signal detecting section" (see FIG. 1 the an address control signal generation means 30 is provided. Since a region of an image displayed on the screen can be changed in any direction of horizontal and vertical directions by controlling a readout start address for the memory means 22 on the basis of an address control signal an image having no picture defect can be displayed); and "an index generating section to generate metadata following the acquisition of an identifier and time identified at the control signal detecting section and, in the meantime, impart the

attribute information relevant to the person obtained by the request from the control signal attribute information managing section to the metadata" (see FIG. 11, a telop detection circuit 120 constituting an address control signal generation means, wherein the telop detection output is supplied to a control signal generation portion 160, and an address control signal similar to that in FIG. 1 is generated).

As to claim 4, Takechi discloses the claimed "a control signal detecting section to detect a control signal of a telop with which the telop is switched, identify an identifier thereof, and obtain time of the detection" (when the input image signal having an aspect ratio different from an aspect ratio of image screen display of the display means is supplied and when the telop signal is detected, the readout start address for the memory means is controlled on the basis of the address control signal generated by the address control signal generation means, so that a picture defect of the telop signal is prevented without changing the aspect ratio of the input image signal); "a control signal attribute information managing section to manage the identifier of the telop and attribute information relevant to the telop in a tied manner beforehand and then identify attribute information relevant to the telop on the basis of an identifier obtained at the control signal detecting section" (see FIG. 1 the an address control signal generation means 30 is provided. Since a region of an image displayed on the screen can be changed in any direction of horizontal and vertical directions by controlling a readout start address for the memory means 22 on the basis of an address control signal an image having no picture defect can be displayed); and "an index generating section to generate metadata following the acquisition of an identifier and time identified at the control signal

detecting" (see FIG. 11, a telop detection circuit 120 constituting an address control signal generation means, wherein the telop detection output is supplied to a control signal generation portion 160, and an address control signal similar to that in FIG. 1 is generated).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takechi et al., (hereinafter "Takechi") US Patent no. 7,126,642 in view of Asmussen US Patent No. 7,293,279.

As to claim 3, Takechi discloses the claimed "a control signal detecting section to detect a control signal identify an identifier thereof, and obtain time of the detection" (when the input image signal having an aspect ratio different from an aspect ratio of image screen display of the display means is supplied and when the telop signal is detected, the readout start address for the memory means is controlled on the basis of the address control signal generated by the address control signal generation means, so that a picture defect of the telop signal is prevented without changing the aspect ratio of the input image signal); "a control signal attribute information managing section to manage the identifier and attribute information relevant in a tied manner beforehand and then identify attribute information relevant on the basis of an identifier obtained at the control signal detecting section" (see FIG. 1 the an address control signal generation means 30 is provided. Since a region of an image displayed on the screen can be changed in any direction of horizontal and vertical directions by controlling a readout start address for the memory means 22 on the basis of an address control signal an image having no picture defect can be displayed); and "an index generating section to generate metadata following the acquisition of an identifier and time identified at the control signal detecting section and, in the meantime, impart the attribute information relevant obtained by the request from the control signal attribute information managing section to the metadata" (see FIG. 11, a telop detection circuit 120 constituting an address control signal generation means, wherein the telop detection output is supplied to a control signal generation portion 160, and an address control signal similar to that in FIG. 1 is generated).

However, Takechi does not disclose a control signal of a VCR. On the other hand, discloses analogous system that performs a guide record functions and operate the control

signal of a VCR by sending from the set top terminal to the VCR via the video connection or through a separate connection between the set top terminal and the VCR, wherein the VCR is capable of interpreting these control signals from the set top terminal and performing the desired function, see fig.22. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of the cited references, wherein the control signal disclosed by Takechi would incorporate the use of a VCR, in the same conventional manner as disclosed by Asmussen. One having ordinary skill in the art would have found it motivated to use a control signal of a VCR for the purpose of allowing the viewer to view the video program he/she has missed during the event and can efficiently access several TV programming options.

12. Claims 5-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takechi et al., (hereinafter "Takechi") US Patent no. 7,126,642 in view of Engebretson et al., (hereinafter "Engebretson") US Patent No. 5,724,433.

As to claims 5-16, Takechi substantially discloses the invention as claimed, except for a log data. On the other hand, Engebretson discloses a **control signal** which is transformed to log encoded **data by a log** transformer using standard techniques and as more fully, wherein the log encoded data represents the extracted signal characteristics present in the signal at input. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of the cited references, wherein the control signal of Takechi would incorporate the use of a data log. One having ordinary skill in the art would have found motivated to use a data log in the control signal of Takechi for the purpose of storing video program for later use.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean M Corrielus/
Primary Examiner, Art Unit 2162

February 19, 2009